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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/813,050 | 03/31/2004 | Eyal Krupka | P-6391-US | 4861 |

49444 7590 04/19/2007
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

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| EXAMINER |
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BOCURE, TESFALDET

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| ART UNIT | PAPER NUMBER |
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2611

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/19/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/813,050

Applicant(s)

KRUPKA, EYAL

Examiner

Tesfaldet Bocure

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. the claimed estimating an energy of an effective channel tap which is outside of an effective time span" claimed with respect to detecting modulation system, detecting training sequences and detecting the property of the received signal in claims 1,9,16,20,24 and 28.

It has been disclosed in paragraph [0015] that the "effective channel span may not exceed seven symbols." In paragraph [0016], the 10th, 11th and 12th channel taps as being outside the effective channel tap. How are the 10th, 11th and 12th channel taps related to the disclosed 'seven symbols'? If the 10th, 11th and 12th channel taps are outside the time span, i.e., outside the seven symbol time span disclosed in paragraph [0015], and the 10th, 11th and 12th channel taps are used to detect the modulations scheme, how can the system detect the modulation scheme for symbols outside the seven symbols' time span? How can an energy level of an approximately zero compared to the threshold be a deterministic factor for the modulation scheme? The

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same is true when the system fails to detect the modulation scheme when the 10th, 11th and 12th channel taps are above are threshold. If the 10th channel tap corresponds to 10th row be the matrix disclosed in paragraph [0022], how is it going to be used in detecting the modulation scheme? What are the remaining of the rows?

Claims 2-8,10-14,17-19,21-23,25-27 and 29-35 are inherently rejected as being dependent on the rejected base claims.

3. Claims 1-19 and 24-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. the claimed subject matter in claims 1,9,16,24 and 28 are function single means and step claims .

Claims 2-8,10-14,17-19,25-27 are inherently rejected as being dependent on the rejected base claims.

The Federal Circuit has established a framework for determining whether an element of a claim invokes means-plus-function treatment.¹ See Al-Site Corp. v. VSI Int'l, Inc., 174 F.3d 1314, 1318, 50 USPQ2d 1161, 1166 (Fed. Cir. 1999); Sage Prods. Inc. v. Devon Indus., Inc., 126 F.3d 1420, 1427, 44 USPQ2d 1103, 1109 (Fed. Cir.

¹ 35 U.S.C. § 112, paragraph 6, states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

1997). If the word "means" appears in a claim element in association with a function, the presumption is that 35 U.S.C. § 112, paragraph 6 applies. See id. This presumption collapses, however, if the claim itself recites sufficient structure, material, or acts to perform the claimed function. See id. Without the term "means," a claim element is presumed to fall outside means-plus-function strictures. See id. Once again, however, that presumption can collapse when an element lacking the term "means" nonetheless relies on functional terms rather than structure or material to describe performance of the claimed function. See Al-Site, 174 F.3d at 1318, 50 USPQ2d at 1167.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent publication number 2003/0072394 issued to Molnar, Karl James disclose a receiver receiving a plurality of pilot sequences for each of the modulation scheme.
5. US patent number s 5550881, 64,00,928 and 6717934 issued to Sridhar et al., Khullar et al., and Kaasila et al. respectively disclose a receiver receiving a pilot signal for detecting the modulation mode.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tesfaldet Bocure whose telephone number is (571) 272-

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3015. The examiner can normally be reached on Mon-Thur (7:30a-5:00p) & Mon.-Fri (7:30a-5:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jayanti (Jay) Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

T.Bocure

Tesfaldet Bocure
Primary Examiner
Art Unit 2611

